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Paper No.

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JUN 03 2004

OFFICE OF PETITIONS

In re Application of :
Anders Hebsgaard and Mark Dale :
Application No. 10/698,055 :
Filed: October 30, 2003 :
Attorney Docket No. BP 1622 :
Title: DOCSIS MAC LAYER-BASED ARQ :
FOR FIXED WIRELESS :

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the PETITION UNDER 37 CFR 1.47 filed April 6, 2004 (certificate of mailing April 2, 2004).

The petition is GRANTED.

The above-identified application was filed on October 30, 2003, with an unexecuted declaration, missing the basic statutory filing fee and with additional claim fees due. Anders Hebsgaard and Mark Dale were named as joint inventors. Accordingly, on February 2, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, the basic filing fee, the additional claim fees and a surcharge for late filing.

In response, rule 47 applicant timely filed the instant petition (and fee); the late surcharge; the outstanding filing fees and a declaration executed by inventor Hebsgaard on behalf of himself and on behalf of non-signing inventor Dale. Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Dale has refused to join in the application for patent.

By declaration of facts of attorney James A. Harrison, with supporting documentary evidence, petitioner has shown that the application papers were presented to inventor Mark Dale by regular mail and by certified mail - return receipt requested. By his conduct in not responding to the presentation of the application papers and request to sign the declaration, inventor Dale has refused to join in the application. The petition includes payment of the petition fee and the last known address of inventor Dale.

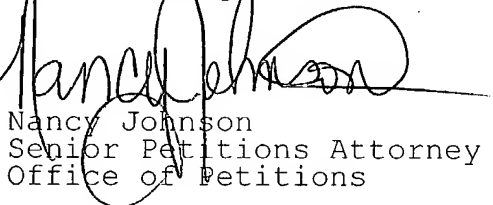
The declaration filed April 6, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status. As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

On petition under 1.47, rule 47 applicant also requests that any patent which may issue from the application be issued to Broadcom Corporation. In this regard, applicant is advised that a decision granting a petition under 37 CFR 1.47 does not alter the ownership interest or title of the application. If the non-signing inventor has not signed an assignment document which has been recorded in the USPTO, then the 37 CFR 1.47 applicant (the company that files the petition under 37 CFR 1.47(b) and establishes proprietary interest in the application) is NOT the assignee of the entire interest of the application. Furthermore, the requirements for issuance of the patent to an assignee, including a partial assignee, are provided for in 37 CFR § 3.81, not 37 CFR § 1.47.

Technology Center 2661 has been advised of this decision. The application will be examined in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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: LETTER
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Dear Mr. Dale:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
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